

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 1228

Introduced by Quandahl, 31

Read first time January 21, 2004

Committee: Banking, Commerce and Insurance

A BILL

- 1 FOR AN ACT relating to the Property and Casualty Insurance Rate and
- 2 Form Act; to amend sections 44-7506 and 44-7509, Revised
- 3 Statutes Supplement, 2002, and section 44-7508.01,
- 4 Revised Statutes Supplement, 2003; to change provisions
- 5 relating to personal lines of insurance; and to repeal
- 6 the original sections.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-7506, Revised Statutes Supplement,
2 2002, is amended to read:

3 44-7506. (1) All rating systems and prospective loss
4 costs shall be filed with the director in accordance with section
5 44-7508, except that filings for the following shall be filed in
6 accordance with sections 44-7510 and 44-7511:

7 (a) Insurance covering farms and ranches, including crop
8 insurance;

9 (b) Filings made by advisory organizations;

10 (c) Workers' compensation and employers liability
11 insurance;

12 (d) Medical professional liability insurance;

13 (e) Insurance in noncompetitive markets as determined
14 pursuant to section 44-7507;

15 (f) ~~Insurance covering risks of a personal nature,~~
16 ~~including insurance for homeowners, tenants, private passenger~~
17 ~~nonfleet automobiles, mobile homes, and other property and casualty~~
18 ~~insurance for personal, family, or household needs,~~

19 ~~(g)~~ Liability and physical damage coverages relating to
20 the rental of private passenger automobiles on a nonfleet basis;

21 ~~(h)~~ (g) Insurance written by joint underwriting pools or
22 joint reinsurance pools;

23 ~~(i)~~ (h) Insurance written in an assigned risk plan; and

24 ~~(j)~~ (i) Insurance covering risks of a personal nature
25 written for business entities if the costs for the insurance are
26 charged to individuals. This does not include coverage provided
27 without a separate charge by business entities for their customers.

28 (2) (a) If the director, after notice and hearing in

1 accordance with the Administrative Procedure Act, finds that an
2 insurer has made filings pursuant to section 44-7508 that have
3 failed to meet the filing standards contained in that section with
4 such frequency as to indicate a general business practice that
5 disregards the requirements of that section, the director shall
6 order that the insurer's filings be made subject to the
7 requirements of sections 44-7510 and 44-7511.

8 (b) Upon application by an insurer affected by an order
9 issued pursuant to subdivision (2)(a) of this section,
10 demonstrating that its filings made subsequent to the order have
11 been in compliance with section 44-7508 without the need for the
12 director to request that the original filings be amended, the
13 director shall vacate such order. The director shall consider any
14 such application within thirty days after its receipt for any order
15 that has been in effect for more than nine months since its
16 inception or since it was last reviewed by the director pursuant to
17 an application by the insurer.

18 (c) For insurers whose rating system filings that would
19 otherwise be subject to this section have been made subject to the
20 prior approval requirements of section 44-7511 through the
21 application of this subsection, the percentage rating flexibilities
22 provided in section 44-7509 shall apply to such rating system
23 filings made by such insurers once the rating system filing has
24 been approved pursuant to section 44-7511.

25 Sec. 2. Section 44-7508.01, Revised Statutes Supplement,
26 2003, is amended to read:

27 44-7508.01. (1) All policy forms and related rules of
28 attachment shall be filed with the director in accordance with

1 section 44-7508.02, except that an insurer may at its option file
2 policy forms and related rules of attachment in accordance with
3 section 44-7513 and filings for the following shall be filed in
4 accordance with section 44-7513:

5 (a) Filings made by advisory organizations;

6 (b) Workers' compensation and employers liability
7 insurance;

8 (c) Insurance covering farms and ranches, including crop
9 insurance;

10 (d) Excess workers' compensation and employers liability
11 insurance;

12 (e) Medical professional liability insurance;

13 (f) Insurance in noncompetitive markets as determined
14 pursuant to section 44-7507;

15 ~~(g) Insurance covering risks of a personal nature,~~
16 ~~including insurance for homeowners, tenants, private passenger~~
17 ~~nonfleet automobiles, mobile homes, and other property and casualty~~
18 ~~insurance for personal, family, or household needs,~~

19 ~~(h)~~ Liability and physical damage coverages relating to
20 the rental of private passenger automobiles on a nonfleet basis;

21 ~~(i)~~ (h) Insurance written by joint underwriting pools or
22 joint reinsurance pools;

23 ~~(j)~~ (i) Insurance written in an assigned risk plan; and

24 ~~(k)~~ (j) Insurance covering risks of a personal nature
25 written for business entities if the costs for the insurance are
26 charged to individuals. This does not include coverage provided
27 without a separate charge by business entities for their customers.

28 (2) (a) If the director, after notice and hearing in

1 accordance with the Administrative Procedure Act, finds that an
2 insurer has made filings pursuant to section 44-7508.02 that have
3 failed to meet the filing standards contained in such section with
4 such frequency as to indicate a general business practice that
5 disregards the requirements of such section or finds that the
6 insurer committed one or more egregious acts relating to the filing
7 standards, the director shall order that the insurer's filings be
8 made subject to the requirements of section 44-7513.

9 (b) Upon application by an insurer affected by an order
10 issued pursuant to subdivision (2)(a) of this section demonstrating
11 that its filings made subsequent to the order have been in
12 compliance with section 44-7508.02 without the need for the
13 director to request that the original filings be amended, the
14 director may vacate such order. The director shall consider any
15 such application within thirty days after its receipt for any order
16 that has been in effect for more than nine months since its
17 inception or since it was last reviewed by the director pursuant to
18 an application by the insurer.

19 Sec. 3. Section 44-7509, Revised Statutes Supplement,
20 2002, is amended to read:

21 44-7509. (1) For medical professional liability
22 insurance and for insurance subject to section 44-7508, insurers
23 may increase or decrease premiums on an individual risk basis up to
24 forty percent based on any factor except:

25 (a) The rate adjustment cannot be based upon the race,
26 creed, national origin, or religion of the insured; ~~and~~

27 (b) The rate adjustment cannot violate the Unfair
28 Discrimination Against Subjects of Abuse in Insurance Act; and

1 (c) The rate adjustment cannot apply to insurance
2 covering risks of a personal nature, including insurance for
3 homeowners, tenants, private passenger nonfleet automobiles, mobile
4 homes, and other property and casualty insurance for personal,
5 family, or household needs.

6 (2) If the director finds after a hearing that (a) the
7 utilization of this section by the insurance industry has produced
8 a significant number of rate modifications at or near the upper
9 limit and at the lower limit of the allowable range of modification
10 and (b) the modifiers at and near the upper and lower limits of the
11 allowable range of modification appear to be predominantly
12 correlated with individual risk factors that relate to expected
13 losses and expenses, the director may, by rules and regulations,
14 broaden the range of plus or minus forty percent for any line or
15 type of insurance subject to section 44-7508.

16 (3) If the director finds after a hearing that modifiers
17 at or near the upper or lower limits of the allowable range of
18 modification are not predominantly correlated with individual risk
19 factors that relate to expected losses and expenses, the director
20 may, by rules and regulations, reduce the range of plus or minus
21 forty percent for any line or type of insurance subject to section
22 44-7508, but such reduction shall not be to less than plus or minus
23 twenty-five percent.

24 Sec. 4. Original sections 44-7506 and 44-7509, Revised
25 Statutes Supplement, 2002, and section 44-7508.01, Revised Statutes
26 Supplement, 2003, are repealed.